(41)

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 4358 of 2007

PETITIONER		Santosh Kumar Sharma @ Pappu, S/o Shri Chhedilal Sharma, Aged about 38 years, Occupation: Councillor, Ward No. 5, Municipal Council, Naila, Janjgir, R/o In front of Ganesh Talkies, Main Road, Naila, Janjgir, District: Janjgir-Champa, Chhattisgarh.
		Versus
RESPONDENTS	1	State of Chhattisgarh, Through the Secretary, Department of Local Self Government, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.
	2	The Director, Urban Administration and Local Self Government, State of Chhattisgarh, Raipur, Chhattisgarh.
	3	The Collector, District: Janjgir-Champa, Chhattisgarh
	4	Municipal Council, Naila, Janjgir, Through its Chief Municipal Officer, Naila, Janjgir, District: Janjgir-Champa, Chhattisgarh.
	5	Chief Municipal Officer, Municipal Council, Naila, Janjgir, District: Janjgir-Champa, Chhattisgarh.

Appearance:

Shri Rajeev Shrivastava, counsel for the petitioner.

Shri A.S. Kachhawaha, Govt. Advocate for the State on Advance copy.

ORAL ORDER
(27.07.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

The petitioner, who is an elected councilor and the leader of opposition in Municipal Council, Naila, Janjgir, has mainly filed this petition for quashment of the show-cause notice dated 7.7.2007 (Annexure-P/6) issued by the Collector under Section 41 (1) (b) of the C.G. Municipalities Act, 1961.

After arguing for long time, learned counsel for the petitioner prays for withdrawal of this petition with a liberty to

42

take appropriate steps, if in future such an exigency arises. However, he also prays for certain observations that as per the proviso to sub-section (3) of Section 41, the Collector, before taking any decision in the matter of removal of the petitioner, should provide him reasonable opportunity of showing cause.

Perused the writ petition and the provisions and the scheme of Section 41 of the C.G. Municipalities Act, 1961.

Needless to say that the proviso to sub-section (3) of Section 41 of the said Act itself provides that no resolution recommending the removal of any councilor shall be passed by the Municipal Council or Nagar Panchayat, as the case may be, nor any such order of removal shall be passed by the Collector unless such Councillor has been given a reasonable opportunity of showing cause. If the Act itself is self contained on this point, there appears to be no necessity of any observation in this regard as word "shall" and "reasonable opportunity" have been used by Legislature.

With the aforesaid observations and liberty, the petition stands dismissed as withdrawn.

Sd/-
Sunil Kumar Sinha
Judge

vatti